

Dan Bucks
Director

Montana Department of Revenue



Brian Schweitzer
Governor


EXHIBIT 4

DATE 1.24.07

HB 216

January 22, 2007

TO: Chairman Bob Lake and Members of the House Taxation Committee

FROM:  Brian Olsen, Department of Revenue

SUBJECT: Responses to questions asked during House Bill 216 Hearing

During the hearing on House Bill 216 the Committee asked a number of questions. The following information is in response to these questions.

Question: Please provide a history of the credit include the number of taxpayers and the amount of the credit.

Answer: The information is contained on the attached chart.

Question: Please provide the Committee with the list of attributes that qualify for the credit.

Answer: As stated at the hearing, the department agreed to provide the Committee with the Administrative Rules which provides the detail requested. The appropriate Administrative Rules are attached.

Additionally, it should be noted that 15-32-109(1), MCA, further states that the investment must be "...for an energy conservation purpose..." A building or residence requires a certain level of maintenance in order to be useful or habitable. The Department of Revenue does not consider the money spent for routine maintenance and repairs as being for an energy conservation purpose.

Income Tax Energy Credits

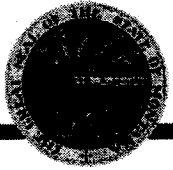
Tax Year	Energy Conservation Installation Credit 15-32-109 MCA (Windows, Siding, Heating systems, etc.)			Alternative Energy Systems Credit 15-32-115 & 201 MCA (Geothermal, Solar, Wood Stoves, etc.)		
	Number of Returns	Amount Claimed	Average Credit	Number of Returns	Amount Claimed	Average Credit
2005	17,960	\$5,623,446	\$313	1,544	\$640,431	\$415
2004	12,196	\$3,098,479	\$254	942	\$445,967	\$473
2003	8,916	\$2,440,965	\$274	656	\$300,489	\$458
2002	4,986	\$1,305,788	\$262	472	\$228,283	\$484
2001	2,588	\$201,445	\$78	207	\$40,193	\$194
2000	1,949	\$141,693	\$73	197	\$38,336	\$195
1999	1,777	\$132,907	\$75	217	\$41,616	\$192
1998	1,962	\$130,774	\$67	271	\$52,647	\$194
1997	1,609	\$120,686	\$75	329	\$61,841	\$188
1996	1,791	\$123,749	\$69	368	\$69,395	\$189
1995	1,894	\$127,015	\$67	727	\$142,396	\$196
1994	2,114	\$150,683	\$71	898	\$185,989	\$207
1993	2,104	\$149,970	\$71	1,280	\$269,738	\$211
1992	1,855	\$117,896	\$64	1,395	\$227,260	\$199
1991	1,695	\$116,339	\$69	884	\$159,171	\$180
1990	1,430	\$95,390	\$67	560	\$72,951	\$130
1989	Not available	Not available	Not available	Not available	Not available	Not available
1988	1,734	\$97,203	\$56	533	\$52,726	\$99

Energy Conservation Credit: Residents can claim a credit against their income tax liability for energy conservation investments that are made to their home or other buildings. The credit is equal to 25% of the taxpayer's expenditure for a maximum of up to \$500 for the capital investments made to their home or another building for energy conservation purposes or for the installation or replacement of a hot water or household heating or cooling system. If the taxpayer is married the spouse may also qualify for this credit as long as the building in which the investment is made is owned by both spouses.

Alternative Energy Systems Credit: Residents can claim a credit against their income tax liability for the cost of purchasing and installing an energy system that uses a recognized nonfossil form of energy, solid waste, and organic waste in a principal residence. The credit cannot exceed \$500 and can be carried forward four years.

Geothermal Systems Credit:** Residents can claim a credit against their income tax liability for the cost of purchasing and installing a geothermal system in a principal residence. The credit cannot exceed \$1,500 and can be carried forward seven years.

****Geothermal Systems--**This credit is included in Alternative Energy Systems for reporting purposes but it is not changed by HB216.



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TAX CREDITS 42.4.202

Subchapter 2

Individual - Energy Conservation Installation Credit

42.4.201 DEFINITIONS The following definitions apply to this subchapter:

(1) "AFUE" means annual fuel utilization efficiency rating for furnaces and boilers expressed as the ratio of energy output to energy input.

(2) "Building" means an enclosed structure with external walls and a roof. This includes single units within multi-unit complexes such as apartment complexes, condominiums and commercial complexes.

(3) "Customer" is defined as a retail purchaser or distribution service provider.

(4) "Energy factor" is the efficiency rating for water heaters. A higher percentage indicates higher efficiency.

(5) "ENERGY STAR" is a program of the U.S. Environmental Protection Agency, which identifies high efficiency products and equipment.

(6) "GAMA" means Gas Appliance Manufacturers Association, which is an independent agency for rating space and water heating devices.

(7) "Heat recovery ventilator" is a device or system designed and installed to provide balanced fresh air ventilation for homes and to transfer energy from the outgoing air stream to the incoming air stream.

(8) "HSPF" means heating season performance factor, which is a measure of the heating efficiency of a heat pump system expressed as a ratio of Btu per watt-hour.

(9) "HVI" means Home Ventilating Institute, which is a rating agency for home ventilation products.

(10) "IECC" means the 2003 International Energy Conservation Code, which is the current energy code version adopted by the state of Montana and enforced statewide.

(11) "National Fenestration Rating Council" (NFRC) means the independent agency that rates windows, doors and skylights.

(12) "New construction" means construction of, or additions to, buildings, living areas, or attached garages that comply with the established standards of new construction as determined by the building code statutes in Title 50, MCA. (History: 15-1-201, 15-32-105, MCA; IMP, 15-32-105, 15-32-109, MCA; NEW, 2004 MAR p. 1965, Eff. 8/20/04; AMD, 2006 MAR p. 357, Eff. 2/10/06.)

42.4.202 INDIVIDUAL INCOME TAX CREDIT FOR ENERGY CONSERVING EXPENDITURES (1) A credit against individual income tax for energy-conserving expenditures provided in 15-32-109, MCA, is claimed by filing an Individual Income Tax Return Form 2 with

Form ENRG-C. The credit is not allowed unless the return and form ENRG-C, providing the information prescribed in the form, are filed with the Department of Revenue, P.O. Box 5805, Helena, Montana 59604-5805. (History: 15-1-201, MCA; IMP, 15-32-109, MCA; NEW, 2004 MAR p. 1965, Eff. 8/20/04.)

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42.4.203 DEPARTMENT OF REVENUE

42.4.203 CREDIT FOR ENERGY CONSERVATION INVESTMENT

(1) Eligible investments for the energy conservation credit in new construction are the investments that exceed the requirements of the IECC with Montana amendments as described in ARM 42.4.206. An example of a correct application is:

(a) Example, if a taxpayer installs an ENERGY STAR qualified furnace in a new construction project, the incremental cost of equipment and installation costs above a conventional furnace required by code qualifies for the energy conservation credit.

(2) For investments in existing buildings, a credit will be given for capital investments that are recognized to substantially reduce the waste or dissipation of energy, or reduce the amount of energy required for proper utilization of the building.

(3) A credit will not be allowed for capital investments that are directly used in a production or manufacturing processor rendering a service to customers.

(4) Only investments in buildings located in Montana qualify for the energy conservation credit.

(5) See ARM 42.4.118 for filing requirements. (History: 15-32-105, MCA; IMP, 15-32-105, 15-32-109, MCA; NEW, 1977 MAR p. 971, Eff. 11/26/77; AMD, 1982 MAR p. 10, Eff. 1/15/82; AMD, 1992 MAR p. 2555, Eff. 11/26/92; AMD and TRANS, from ARM 42.15.431, 2002 MAR p. 3705, Eff. 12/27/02; TRANS, from ARM 42.4.130, 2004 MAR p. 1965, Eff. 8/20/04; AMD, 2006 MAR p. 357, Eff. 2/10/06.)

42.4.204 DETERMINATION OF CAPITAL INVESTMENT FOR ENERGY CONSERVATION (1) The following capital investments are among those that can result in the conservation of energy:

(a) insulation in existing buildings of floors, walls, ceilings, and roofs;

(b) insulation in new construction of floors, walls, ceilings, and roofs, to the extent it exceeds the requirements of the IECC with Montana amendments;

(c) insulation of pipes and ducts located in non-heated areas and of hot-water heaters and tanks;

(d) special insulating siding with a certified insulating factor substantially in excess of that of normal siding;

(e) windows that result in reduction of energy consumption;

(f) storm doors;

(g) insulated exterior doors;

(h) caulking and weather stripping;

(i) devices which limit the flow of hot-water from shower heads and lavatories;

(j) waste heat recovery devices;

(k) glass fireplace doors;

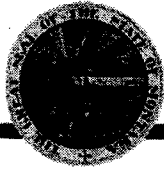
- (l) exhaust fans used to reduce air conditioning requirements;
- (m) replacement of incandescent light fixtures with light fixtures of a more efficient type such as those with electronic ballast and compact or linear fluorescent lamps;

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(n) lighting controls with cutoff switches to permit selective use of lights;

(o) programmable thermostats; and

(p) installation of new domestic hot-water, heating, or cooling systems, so long as the replacement or installation of the new system reduces the waste or dissipation of energy, or reduces the amount of energy required.

(2) If the new system described in (1)(p) differs in style or type from the previous system, such as, if one or more window air-conditioning units is replaced with a central air system, the new system must exceed the requirement in ARM 42.4.206(1)(c).

(3) If the replacement system exceeds the established standards, only the additional cost shall be considered when computing the credit.

(4) This is not to be considered an exhaustive list of qualifying capital investments. The department will consider other investments that substantially reduce the waste or dissipation of energy, or reduce the amount of energy required for the heating, cooling, or lighting of buildings. The department may consider the cost of the investment against the expected savings in determining whether the investment qualifies.

(5) Investments in an existing building or new construction for which no capital investment for energy conservation purposes is substantiated do not qualify for the energy conservation credit. For example, the investments do not qualify for the energy conservation credit when the taxpayer installs an insulated garage door in an existing building or during new construction and this building does not consume any energy other than electrical energy for lighting purposes.

(6) The department may request assistance from the department of environmental quality to determine if an investment made by a taxpayer qualifies as an energy conservation investment for the purpose of the energy conservation credit. (History: 15-32-105, MCA; IMP, 15-32-105, 15-32-109, MCA; NEW, 1977 MAR p. 972, Eff. 11/26/77; AMD, 1982 MAR p. 10, Eff. 1/15/82; AMD and TRANS, from ARM 42.15.432, 2002 MAR p. 3705, Eff. 12/27/02; TRANS, from ARM 42.4.131, 2004 MAR p. 1965, Eff. 8/20/04; AMD, 2006 MAR p. 357, Eff. 2/10/06.)

42.4.205 CALCULATION OF THE ENERGY CONSERVATION CREDIT

(1) Taxpayers are entitled to an energy conservation credit for energy conservation investments made to existing buildings and new construction. The energy conservation credit is available in the tax year that the taxpayer paid for and completed the installation of the energy conservation investments.

(2) For an existing building, an example of how the credit would be applied is:

(a) The taxpayer purchased and completed installation of an ENERGY STAR qualifying furnace in the taxpayer's home during October 2005, half of the total price of the furnace was

paid for in 2005 and the other half in 2006. The energy conservation credit is available in tax year 2005 only and the taxpayer is not entitled to an additional energy conservation credit for the second half payment made in 2006.

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42.4.206 DEPARTMENT OF REVENUE

(3) For new construction, the energy conservation credit is available in the tax year that the construction is completed. An example of how the credit would be applied is:

(a) The taxpayer began construction of a new home in 2004 and finished it in 2005. The taxpayer invested in energy conservation measures that exceeded the 2003 International Energy Conservation Code with Montana amendments. The energy conservation credit is available in tax year 2005 only and the taxpayer is not entitled to an energy conservation credit for tax year 2004 even though the construction began in 2004.

(4) For multi-unit buildings such as apartment complexes and condominiums, an energy conservation credit will be allowed for each unit when it can be demonstrated that the expense was attributed to a specific unit. Examples of these expenditures are:

(a) an ENERGY STAR qualifying furnace that only serves one unit of a multi-unit building would qualify as one expenditure and one credit;

(b) an ENERGY STAR qualifying furnace that serves all units of a multi-unit building is considered only one energy conservation investment and would qualify as one expenditure and one credit; or

(c) installation of an ENERGY STAR qualifying furnace in each unit of a multi-unit building would qualify as a separate expenditure and credit for each unit.

(5) The energy conservation credit is available to all owners of a building who invest in energy conservation expenditures. Examples of this application are:

(a) A husband and wife replace windows and exterior doors with qualifying investments in their existing home for a total cost of \$6,000. Each spouse is entitled to a maximum \$500 energy conservation credit. ($\$6,000 \times .25 = \$1,500$ with a maximum credit of \$500 per individual.)

(b) Four individuals who own a commercial building replace windows, exterior doors and the heating system with qualifying investments for a total cost of \$20,000. Each individual is entitled to a maximum \$500 energy conservation credit. ($\$20,000 \times .25 = \$5,000$ with a maximum credit of \$500 for each individual.) (History: 15-32-105, MCA; IMP, 15-32-105, 15-32-109, MCA; NEW, 2006 MAR p. 357, Eff. 2/10/06.)

42.4.206 NEW CONSTRUCTION STANDARDS (1) For new construction, the energy-conserving expenditure must exceed the following equipment standards:

(a) air-source heat pumps - specification (split systems - greater than or equal to 8.0 HSPF or single package system - greater than or equal to 7.6 HSPF) - reference (ENERGY STAR qualified);

(b) boilers - specification (rating of 85% AFUE or greater) - reference (ENERGY STAR qualified);

(c) central air conditioners - specification (split systems - greater than or equal to 13

SEER - single package system - greater than or equal to 12 SEER) - reference (ENERGY STAR qualified);

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(d) demand or instantaneous water heaters - specifications (gas-fired instantaneous - .82 or greater energy factor and electronic ignition) - reference (GAMA directory rating certified);

(e) furnaces - specifications (rating of 90% AFUE or greater) - reference (ENERGY STAR qualified);

(f) heat recovery ventilators - specifications (CSA C439-00 standard) - reference (HVI certified product);

(g) indirect water heaters - specifications (high efficiency) - reference (minimum of two inches foam insulation);

(h) light fixtures - specifications (electronic ballast and compact or linear fluorescent lamp) - reference (ENERGY STAR qualified);

(i) skylights - specifications (skylights must have a U-factor of .60 or less and meet ENERGY STAR qualifications) - reference (National Fenestration Rating Council (NFRC) window label);

(j) thermostats - specifications (programmable thermostat) - reference (ENERGY STAR qualified); and

(k) windows and doors - specifications (windows and doors must have a U-factor of .35 or less and meet ENERGY STAR qualifications) - reference (National Fenestration Rating Council (NFRC) window label).

(2) In order to qualify for energy conservation credits for new construction, the energy-conserving expenditure must exceed the following Montana prescriptive path requirements:

(a) ceilings - R-49;

(b) crawlspace walls - R-20;

(c) exterior walls - R-21;

(d) finished basement walls - R-11;

(e) floors over unconditioned spaces - R-21;

(f) heating/cooling equipment - federal minimum standards;

(g) slab perimeter area four feet vertical or horizontal - R-13; and

(h) windows U-factor - U-.35. (History: 15-32-105, MCA; IMP, 15-32-105, 15-32-109, MCA; NEW, 2006 MAR p. 357, Eff. 2/10/06.)

42.4.207 RECORD RETENTION REQUIREMENTS (1) In order to claim the energy conservation credit, the taxpayer is required to retain invoices, sales agreements or receipts that document the work done and the equipment installed. The records should clearly state the equipment manufacturer, make and model number of any installed item or product that will determine the qualifications for the energy conservation credit. (History: 15-32-105, MCA; IMP, 15-32-105, 15-32-109, MCA; NEW, 2006 MAR p. 357, Eff. 2/10/06.)

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